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July 23, 2021

Via ECF

Honorable Victor Marrero
United States District Judge
Southern District of New York
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

Re: *Mundo v. Highgate Hotels, L.P., et al.*
Docket No. 21-cv-05393
MLGB File No.: 13629.00150

Dear Judge Marrero:

This firm represents Defendants Highgate Hotels, L.P., Park Lane Hotel New York and Jason Londell and Anna Surina, in their individual and corporate capacities, (collectively, “Defendants”), in the above-referenced matter. Plaintiff Daniel Mundo is represented by Brandon J. Broderick, Attorney at Law. Defendants, writing jointly with Plaintiff, submit this letter in compliance with the Order issued by Your Honor on June 28, 2021. Parties also enclose a proposed Civil Case Management Plan and Scheduling Order.

On or about May 24, 2021, Plaintiffs commenced the instant action by filing a Complaint in the New York State Supreme Court, New York County, against Defendants alleging the following violations of the Family Medical Leave Act (“FMLA”): (i) retaliatory termination in violation of the FMLA against all Defendants; and (ii) unlawful retaliation in violation of the FMLA against all individually named Defendants.

As the causes of action asserted in the Complaint only involved federal law, Defendants promptly filed a Notice of Removal in the United States District Court for the Southern District of New York, as well as a Notice of Filing of Notice of Removal in the State court action. (*See* ECF 1). On June 24, 2021, Defendants served an Answer and Corporate Disclosure Statements pursuant to Fed. R. Civ. Proc. Rule 7.1. (*See* ECF 7, 9, and 11). The removal documents filed via ECF, as well as the Court’s Order, were served on Plaintiff’s counsel via regular mail and electronic mail.

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I. NATURE OF THE ACTION AND PRINCIPAL DEFENSES

A. Plaintiff's Factual and Legal Bases for His Claims

Plaintiff was employed by defendant Highgate Hotels from during or around 2003 until on or about November 6, 2020 when he was unlawfully terminated for exercising his right to take leave pursuant to the FMLA. Prior to such termination, on or about September 23, 2020, as the result of his severe and profound health issues, plaintiff commenced a doctor-prescribed six-week FMLA covered medical leave, which concluded on or about October 26, 2020, at which point plaintiff returned to work. On such date of return, plaintiff was summoned to a meeting with Human Resources and defendant Londell during which plaintiff was placed on an immediate suspension without pay pending an investigation into his alleged "violations of company policy." Plaintiff was entirely shocked by such allegations, all of which were notably absent from his seventeen (17) years of flawless personnel records and unquestionably devised to punish him for taking medical leave. Subsequently, on or about November 6, 2020, plaintiff was terminated for taking FMLA covered medical leave.

B. Defendants' Principal Defenses

Defendants deny the allegations of Plaintiff's Complaint in its entirety. Defendants did not retaliate against Plaintiff in violation of the FMLA. Plaintiff's employment was terminated for legitimate nondiscriminatory business reasons, namely, violation of company policies and other performance issues. Moreover, Defendants did not interfere with, restrain, or deny any of the Plaintiff's rights under the FMLA. In fact, Plaintiff was terminated after his medical leave concluded and he returned to work.

Defendants reserve the right to include additional factual and legal defenses to these claims pursuant to the FMLA as well as any other applicable law and/or regulation.

II. LEGAL BASIS AND JURISDICTION

This Court has jurisdiction over this matter on the grounds the action arises under the laws of the United States, namely the FMLA, pursuant to 28 U.S.C. §§ 1441(a).

III. CONTEMPLATED MOTIONS

Parties anticipate filing summary judgment motions at the end of discovery.

IV. PRIOR SETTLEMENT DISCUSSIONS AND PROSPECTS FOR SETTLEMENT

Parties have not engaged in any settlement discussions since the commencement of this action.

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V. ESTIMATED LENGTH OF TRIAL

The parties estimate a five (5) day trial for this case.

We thank the Court for its time and consideration.

Respectfully submitted,

/s/Asish Anne Nelluvely
Asish Anne Nelluvely, Esq.

cc: All Counsel of Record (via ECF)
Marc Garbar (vie email - MGarbar@201employmentlaw.com)